

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SHANNON BLACK MULLER
AKA SHANNON KAY MAHAN
SHANNON KAY BLACK
83 Depot Road
Santa Barbara, CA 93108

Registered Nurse License No. 299746

Respondent

Case No. 2006-189

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on June 11, 2007.

IT IS SO ORDERED May 9, 2007.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC GREENBAUM
Supervising Deputy Attorney General
3 BEN E. JOHNSON, State Bar No. 84406
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2095
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 SHANNON BLACK MULLER
a.k.a.: SHANNON KAY MAHAN;
13 SHANNON KAY BLACK
83 Depot Road
14 Santa Barbara, CA 93108

15 Registered Nurse No. 299746

16 Respondent.

Case No. 2006-189

OAH No. L-2006080250

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the
22 Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Ben E. Johnson, Deputy Attorney General, on behalf of Edmund G.
24 Brown Jr., Attorney General of the State of California.

25 2. Respondent Shannon Black Muller (Respondent) is represented in this proceeding
26 by Attorney John R. DeLoreto, whose address is 101 West Anapamu Street, Suite D, Santa
27 Barbara, CA 93101-3140.

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3. On or about February 28, 1979, the Board of Registered Nursing issued Registered Nurse License No. 299746 to Shannon Black Muller, a.k.a.: Shannon Kay Mahan; Shannon Kay Black (Respondent). The license was in full force and effect at all times relevant to the charges brought in Accusation No. 2006-189 and will expire on July 31, 2008, unless renewed.

JURISDICTION

4. Accusation No. 2006-189 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 25, 2006. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2006-189 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2006-189. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 2006-189.

4 9. Respondent agrees that her Registered Nurse License is subject to discipline and
5 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
6 Order below.

7 CIRCUMSTANCES IN MITIGATION

8 10. Respondent Shannon Black Muller has never been the subject of any disciplinary
9 action. Respondent readily admits she is a former addict who is presently in a stable long-term
10 recovery, i.e., she has been drug-free for over five years. Almost six years have passed since her
11 relapse in April 2001 and her subsequent re-dedication to recovery, which included two years off
12 work (2001-2003) to focus on abstinence and recovery. Subsequently, Respondent recommenced
13 full-time employment in nursing and has, since June 23, 2003, been working at the Rehabilitation
14 Institute of Santa Barbara, where she has demonstrated exemplary performance during the past
15 three years. She is admitting responsibility at an early stage in the proceedings.

16 RESERVATION

17 11. The admissions made by Respondent herein are only for the purposes of this
18 proceeding, or any other proceedings in which the Board of Registered Nursing or other
19 professional licensing agency is involved, and shall not be admissible in any other criminal or
20 civil proceeding.

21 CONTINGENCY

22 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
23 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
24 Registered Nursing may communicate directly with the Board regarding this stipulation and
25 settlement, without notice to or participation by Respondent or her counsel. By signing the
26 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
27 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
28 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

DISCIPLINARY ORDER

In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

IT IS HEREBY ORDERED that Registered Nurse No. 299746 issued to Respondent Shannon Black Muller is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

1 2. **Comply with the Board's Probation Program.** Respondent shall fully comply
2 with the conditions of the Probation Program established by the Board and cooperate with
3 representatives of the Board in its monitoring and investigation of the Respondent's compliance
4 with the Board's Probation Program. Respondent shall inform the Board in writing within no
5 more than 15 days of any address change and shall at all times maintain an active, current license
6 status with the Board, including during any period of suspension.

7 Upon successful completion of probation, Respondent's license shall be fully restored.

8 3. **Report in Person.** Respondent, during the period of probation, shall appear in
9 person at interviews/meetings as directed by the Board or its designated representatives.

10 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
11 practice as a registered nurse outside of California shall not apply toward a reduction of this
12 probation time period. Respondent's probation is tolled, if and when she resides outside of
13 California. Respondent must provide written notice to the Board within 15 days of any change of
14 residency or practice outside the state, and within 30 days prior to re-establishing residency or
15 returning to practice in this state.

16 Respondent shall provide a list of all states and territories where she has ever been
17 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
18 provide information regarding the status of each license and any changes in such license status
19 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
20 new nursing license during the term of probation.

21 5. **Submit Written Reports.** Respondent, during the period of probation, shall
22 submit or cause to be submitted such written reports/declarations and verification of actions
23 under penalty of perjury, as required by the Board. These reports/declarations shall contain
24 statements relative to Respondent's compliance with all the conditions of the Board's Probation
25 Program. Respondent shall immediately execute all release of information forms as may be
26 required by the Board or its representatives.

27 Respondent shall provide a copy of this Decision to the nursing regulatory agency in
28 every state and territory in which she has a registered nurse license.

1 6. **Function as a Registered Nurse.** Respondent, during the period of probation,
2 shall engage in the practice of registered nursing in California for a minimum of 24 hours per
3 week for 6 consecutive months or as determined by the Board.

4 For purposes of compliance with the section, "engage in the practice of registered
5 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
6 work in any non-direct patient care position that requires licensure as a registered nurse.

7 The Board may require that advanced practice nurses engage in advanced practice nursing
8 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

9 If Respondent has not complied with this condition during the probationary term, and
10 Respondent has presented sufficient documentation of her good faith efforts to comply with this
11 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
12 an extension of Respondent's probation period up to one year without further hearing in order to
13 comply with this condition. During the one year extension, all original conditions of probation
14 shall apply.

15 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
16 prior approval from the Board before commencing or continuing any employment, paid or
17 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
18 performance evaluations and other employment related reports as a registered nurse upon request
19 of the Board.

20 Respondent shall provide a copy of this Decision to her employer and immediate
21 supervisors prior to commencement of any nursing or other health care related employment.

22 In addition to the above, Respondent shall notify the Board in writing within seventy-two
23 (72) hours after she obtains any nursing or other health care related employment. Respondent
24 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
25 separated, regardless of cause, from any nursing, or other health care related employment with a
26 full explanation of the circumstances surrounding the termination or separation.

27 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
28 Respondent's level of supervision and/or collaboration before commencing or continuing any

1 employment as a registered nurse, or education and training that includes patient care.

2 Respondent shall practice only under the direct supervision of a registered nurse in good
3 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
4 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
5 approved.

6 Respondent's level of supervision and/or collaboration may include, but is not limited to
7 the following:

8 (a) Maximum - The individual providing supervision and/or collaboration is
9 present in the patient care area or in any other work setting at all times.

10 (b) Moderate - The individual providing supervision and/or collaboration is in
11 the patient care unit or in any other work setting at least half the hours Respondent works.

12 (c) Minimum - The individual providing supervision and/or collaboration has
13 person-to-person communication with Respondent at least twice during each shift worked.

14 (d) Home Health Care - If Respondent is approved to work in the home health
15 care setting, the individual providing supervision and/or collaboration shall have person-to-
16 person communication with Respondent as required by the Board each work day. Respondent
17 shall maintain telephone or other telecommunication contact with the individual providing
18 supervision and/or collaboration as required by the Board during each work day. The individual
19 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
20 site visits to patients' homes visited by Respondent with or without Respondent present.

21 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in
22 any private duty position as a registered nurse, a temporary nurse placement agency, a traveling
23 nurse, or for an in-house nursing pool.

24 Respondent shall not work for a licensed home health agency as a visiting nurse unless
25 the registered nursing supervision and other protections for home visits have been approved by
26 the Board. Respondent shall not work in any other registered nursing occupation where home
27 visits are required.

28 Respondent shall not work in any health care setting as a supervisor of registered nurses.

1 The Board may additionally restrict Respondent from supervising licensed vocational nurses
2 and/or unlicensed assistive personnel on a case-by-case basis.

3 Respondent shall not work as a faculty member in an approved school of nursing or as an
4 instructor in a Board approved continuing education program.

5 Respondent shall work only on a regularly assigned, identified and predetermined
6 worksite(s) and shall not work in a float capacity.

7 If Respondent is working or intends to work in excess of 40 hours per week, the Board
8 may request documentation to determine whether there should be restrictions on the hours of
9 work.

10 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll
11 and successfully complete a course(s) relevant to the practice of registered nursing no later than
12 six months prior to the end of her probationary term.

13 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
14 Respondent shall submit to the Board the original transcripts or certificates of completion for the
15 above required course(s). The Board shall return the original documents to Respondent after
16 photocopying them for its records.

17 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
18 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
19 amount of **\$10,000.00**. Respondent shall be permitted to pay these costs in a payment plan
20 approved by the Board, with payments to be completed no later than three months prior to the
21 end of the probation term.

22 If Respondent has not complied with this condition during the probationary term, and
23 Respondent has presented sufficient documentation of her good faith efforts to comply with this
24 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
25 an extension of Respondent's probation period up to one year without further hearing in order to
26 comply with this condition. During the one year extension, all original conditions of probation
27 will apply.

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1 12. **Violation of Probation.** If Respondent violates the conditions of her probation,
2 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay
3 order and impose the stayed discipline (revocation/suspension) of Respondent's license.

4 If during the period of probation, an accusation or petition to revoke probation has been
5 filed against Respondent's license or the Attorney General's Office has been requested to prepare
6 an accusation or petition to revoke probation against Respondent's license, the probationary
7 period shall automatically be extended and shall not expire until the accusation or petition has
8 been acted upon by the Board.

9 13. **License Surrender.** During Respondent's term of probation, if she ceases
10 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
11 probation, Respondent may surrender her license to the Board. The Board reserves the right to
12 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
13 take any other action deemed appropriate and reasonable under the circumstances, without
14 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
15 will no longer be subject to the conditions of probation.

16 Surrender of Respondent's license shall be considered a disciplinary action and shall
17 become a part of Respondent's license history with the Board. A registered nurse whose license
18 has been surrendered may petition the Board for reinstatement no sooner than the following
19 minimum periods from the effective date of the disciplinary decision:

20 (1) Two years for reinstatement of a license that was surrendered for any
21 reason other than a mental or physical illness; or

22 (2) One year for a license surrendered for a mental or physical illness.

23 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
24 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
25 assistant, who is approved by the Board before the assessment is performed, submit an
26 assessment of the Respondent's physical condition and capability to perform the duties of a
27 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
28 medically determined, a recommended treatment program will be instituted and followed by the

Respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.

Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

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1 Based on Board recommendation, each week Respondent shall be required to attend at
2 least one, but no more than five, 12-step recovery meetings or equivalent (e.g., Narcotics
3 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
4 by the Board. If a nurse support group is not available, an additional 12-step meeting or
5 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
6 such attendance to the Board during the entire period of probation. Respondent shall continue
7 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
8 mental health examiner and/or other ongoing recovery groups.

9 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
10 completely abstain from the possession, injection or consumption by any route of all controlled
11 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
12 are ordered by a health care professional legally authorized to do so as part of documented
13 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
14 days, by the prescribing health professional, a report identifying the medication, dosage, the date
15 the medication was prescribed, the Respondent's prognosis, the date the medication will no
16 longer be required, and the effect on the recovery plan, if appropriate.

17 Respondent shall identify for the Board a single physician, nurse practitioner or physician
18 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
19 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
20 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
21 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
22 considered addictive have been prescribed, the report shall identify a program for the time
23 limited use of any such substances.

24 The Board may require the single coordinating physician, nurse practitioner, or physician
25 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
26 medicine.

27 17. **Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
28 random, biological fluid testing or a drug screening program which the Board approves. The

length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

18. **Mental Health Examination.** Respondent shall, within 45 days of the effective date of this Decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the

responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by Respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my Attorney, John R. DeLoreto. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: _____.

SHANNON BLACK MULLER
Respondent

I have read and fully discussed with Respondent Shannon Black Muller the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____.

JOHN R. DELORETO
Attorney for Respondent

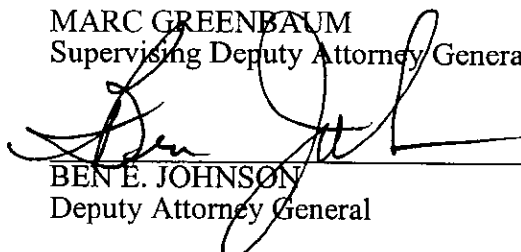
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: Feb. 7, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

MARC GREENBAUM
Supervising Deputy Attorney General



BEN E. JOHNSON
Deputy Attorney General
Attorneys for Complainant

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my Attorney, John R. DeLoreto. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: Feb. 7, 2007

Shannon Black Muller
SHANNON BLACK MULLER
Respondent

I have read and fully discussed with Respondent Shannon Black Muller the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: Feb. 7, 2007

John R. DeLoreto
JOHN R. DELORETO
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: Feb. 7, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

MARC GREENBAUM
Supervising Deputy Attorney General

Ben E. Johnson
BEN E. JOHNSON
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. 2006-189

BILL LOCKYER, Attorney General
of the State of California
BEN E. JOHNSON, State Bar No. 84406
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2095
Facsimile: (213) 897-2810

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2006-189

SHANNON BLACK MULLER,
a.k.a.: SHANNON KAY MAHAN;
SHANNON KAY BLACK

OAH No.

A C C U S A T I O N

83 Depot Rd.
Santa Barbara, CA 93108

Registered Nurse License No. 299746

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

2. On or about February 28, 1979, the Board issued Registered Nurse License No. 299746 to Shannon Black Muller, aka Shannon Kay Mahan; Shannon Kay Black (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 states, in pertinent part:

2 "Every certificate holder or licensee, including licensees holding temporary
3 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
4 in this article [article 3 (commencing with section 2750)]. As used in this article, 'license'
5 includes certificate, registration, or any other authorization to engage in the practice regulated by
6 this chapter [chapter 6 (commencing with section 2700)]."

7 5. Section 2764 states:

8 "The lapsing or suspension of a license by operation of law or by order or decision
9 of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not
10 deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding
11 against such license, or to render a decision suspending or revoking such license."

12 6. Section 2811, subdivision (b), provides in pertinent part, that each license not
13 renewed in accordance with that section shall expire, but may within a period of eight years
14 thereafter be reinstated.

15 7. Section 2761 states:

16 "The board may take disciplinary action against a certified or licensed nurse or
17 deny an application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed
20 nursing functions.

21

22 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
24 Nursing Practice Act] or regulations adopted pursuant to it."

25

26 8. Section 2762 states:

27 "In addition to other acts constituting unprofessional conduct within the meaning
28 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed

1 under this chapter to do any of the following:

2 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
3 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
4 or administer to another, any controlled substance as defined in Division 10 (commencing with
5 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
6 defined in Section 4022.

7 "(b) Use any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
9 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
10 injurious to himself or herself, any other person, or the public or to the extent that such use
11 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
12 license.

13 9. Section 4022 defines "dangerous drugs" as any drug that is unsafe for self-
14 medication and which by federal or state law can be lawfully dispensed only on prescription.

15 10. California Code of Regulations, title 16, section 1442, states:

16 "As used in Section 2761 of the code, 'gross negligence' includes an extreme
17 departure from the standard of care which, under similar circumstances, would have ordinarily
18 been exercised by a competent registered nurse. Such an extreme departure means the repeated
19 failure to provide nursing care as required or failure to provide care or to exercise ordinary
20 precaution in a single situation which the nurse knew, or should have known, could have
21 jeopardized the client's health or life."

22 11. California Code of Regulations, title 16, section 1443.5 states:

23 "A registered nurse shall be considered to be competent when he/she consistently
24 demonstrates the ability to transfer scientific knowledge from social, biological and physical
25 sciences in applying the nursing process, as follows:

26 "(1) Formulates a nursing diagnosis through observation of the client's physical
27 condition and behavior, and through interpretation of information obtained from the client and
28 others, including the health team.

1 "(2) Formulates a care plan, in collaboration with the client, which ensures that
2 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
3 protection, and for disease prevention and restorative measures.

4 "(3) Performs skills essential to the kind of nursing action to be taken, explains
5 the health treatment to the client and family and teaches the client and family how to care for the
6 client's health needs.

7

8 "(5) Evaluates the effectiveness of the care plan through observation of the
9 client's physical condition and behavior, signs and symptoms of illness, and reactions to
10 treatment and through communication with the client and health team members, and modifies the
11 plan as needed.

12 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
13 improve health care or to change decisions or activities which are against the interests or wishes
14 of the client, and by giving the client the opportunity to make informed decisions about health
15 care before it is provided."

16 12. Health and Safety Code Section 11550(a) states, in pertinent part, that no person
17 shall use, or be under the influence of any controlled substance which is a narcotic drug classified
18 in Schedule III, IV, or V, except when administered by or under the direction of a person licensed
19 by the state to dispense, prescribe, or administer controlled substances.

20 13. Section 125.3 provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations
22 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 **CONTROLLED SUBSTANCE**

25 14. "Morphine" is a Schedule II controlled substance as defined in Health and Safety
26 Code section 11055, subdivision (b)(1)(M) and is categorized as a dangerous drug pursuant to
27 section 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Use/Under the Influence of Controlled Substances)

3 15. Respondent is subject to disciplinary action pursuant to sections 2761(a), and
4 2762(b), on the grounds of unprofessional conduct in that Respondent used and/or was under the
5 influence of controlled substances, in violation of Health and Safety Code section 11550, as
6 follows:

7 a. On April 9, 2001, while employed as a registered nurse at Santa Barbara
8 Cottage Hospital, Santa Barbara, California, Respondent submitted to a urine drug test. The
9 results of the drug test were positive for opiates/morphine.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Gross Negligence)

12 16. Respondent is subject to disciplinary action under sections 2671(a)(1) on the
13 grounds of gross negligence in violation of California Code of Regulations, title 16, sections
14 1443 and 1443.5 in that on or about April 9, 2001, while employed as a registered nurse at Santa
15 Barbara Cottage Hospital, Santa Barbara, California, Respondent committed gross negligence
16 when she was under the influence of morphine as fully set forth in paragraph 15 above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Violation of the Nursing Practice Act)

19 17. Respondent is subject to disciplinary action pursuant to section 2761(d) for
20 unprofessional conduct, in that Respondent violated or attempted to violate, directly or indirectly
21 the provisions of the Nursing Practice Act, as fully set forth in paragraphs 15 through 16 above.

22
23
24 **PRAYER**


25 WHEREFORE, Complainant requests that a hearing be held on the matters herein
26 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending Registered Nurse License No. 299746, issued to Shannon
28 Black Muller aka Shannon Kay Mahan aka Shannon Kay Black.

1 2. Ordering Shannon Black Muller to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5
6

7 DATED: 4/17/06

8 
9 RUTH ANN TERRY, M.P.H., R.N.
10 Executive Officer
11 Board of Registered Nursing
12 Department of Consumer Affairs
13 State of California
14 Complainant
15

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17 2/3/05 - lbf

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